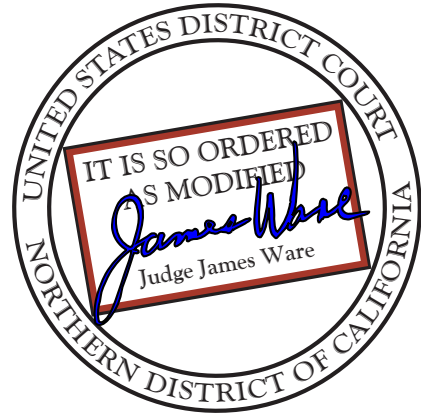


John W. Shaw [State Bar No. 82802]  
 SHAW, TERHAR & LaMONTAGNE, LLP  
 707 Wilshire Boulevard, Suite 3060  
 Los Angeles, California 90017  
 Telephone: (213) 614-0400  
 Facsimile: (213) 629-4534

Attorneys for Defendant  
 COSTCO WHOLESALE CORPORATION,  
 HOMEDICS-U.S.A., INC. (erroneously sued and  
 served herein as "U.S.A.-HoMEDICS, INC.") and  
 TAYLOR PRECISION PRODUCTS, INC.



**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

GINA DRAKE,

Plaintiff,

vs.

COSTCO WHOLESALE  
 CORPORATION, U.S.A.-HoMEDICS,  
 INC., TAYLOR PRECISION  
 PRODUCTS, INC., and DOES 1 through  
 100, inclusive, ,

Defendant.

Case No. C 06 04682 JW

**STIPULATION TO CONTINUE  
 PRETRIAL CONFERENCE DATE  
 AND ALL RELATED DATES AND  
 DEADLINES; [PROPOSED]  
 ORDER**

Complaint Filed: June 27, 2006

The parties, by and through their respective counsel of record, hereby stipulate  
 to continue the pretrial conference date and related cut-off dates/deadlines as follows:

<b><u>ISSUE:</u></b>	<b><u>ORIGINAL DATE:</u></b>	<b><u>PROPOSED DATE:</u></b>
Pretrial Conference:	November 19, 2007	April 14, 2008

This Stipulation may be executed and submitted to the court in counterparts  
 and a faxed copy of any and all necessary signature pages to this Stipulation may be  
 submitted to the court in lieu of the originals.

The following good cause exists for the court to grant this Stipulation in its  
 entirety:

1           1.     Plaintiff GINA DRAKE (“MS. DRAKE”) alleges that she suffered a  
 2 laceration to her foot on 16 August 2005 from the use of a glass scale distributed by  
 3 defendant HOMEDICS-U.S.A., INC. (“HOMEDICS”) that she purchased from  
 4 defendant COSTCO WHOLESALE CORPORATION, INC. (“COSTCO”).

5           2.     MS. DRAKE has sued HOMEDICS and COSTCO under the theories of  
 6 product liability and negligence.

7           3.     MS. DRAKE claims that the scale was defective in breaking into pieces  
 8 that cut her foot.

9           4.     COSTCO and HOMEDICS contend that the scale was not defective.

10          5.     MS. DRAKE’S medical condition has recently and progressively  
 11 deteriorated, such that it is presently uncertain as to the extent of her claimed injury  
 12 and damages that is at issue in this case. Plaintiff is now claiming a number of  
 13 worsening conditions, including severe and chronic neurological deficits and a  
 14 severely compromised immune system. Her medical treatment is now aggressively  
 15 treating different systemic problems, including RSD. Most recently, in the last few  
 16 months, MS. DRAKE has commenced a new “experimental” type of treatment,  
 17 including gamma globulin injections, in an attempt to boost her immune system.  
 18 Each treatment costs \$40,000.00. She receives one treatment each month. Plaintiff  
 19 has identified for the first time those doctors involved in the latest treatments.  
 20 Defendants have not had an opportunity to examine these records that have been  
 21 subpoenaed. These treatments are scheduled for three more months, at which time  
 22 her medical condition will presumably be stabilized. At that time, the extent of  
 23 plaintiff’s medical condition will be ready for evaluation by the parties to this  
 24 litigation and the court.

25          6.     In order to have a fair and equitable trial of all issues in this case, it will  
 26 be necessary for the parties to know the extent and nature of plaintiff’s medical  
 27 condition and claimed injury. A brief continuance of the pre-trial hearing will  
 28

1 determine the extent of the injury and treatments. It would be in the interests of  
2 justice to do so.

3       7. The parties have agreed to mediate this case before private mediator  
4 Justice Christopher C. Cottle (Ret.), former Presiding Justice of the California Court  
5 of Appeal. Justice Cottle has dates available in January, 2008 after plaintiff has  
6 completed her treatments. Justice Cottle is an expert in these types of bodily injury  
7 cases. It will be necessary to have certainty as to plaintiff's medical condition in  
8 order to have a meaningful mediation. It is anticipated that MS. DRAKE's medical  
9 condition will have stabilized in the next three months and the case will be postured  
10 to best maximize resolution efforts through mediation. The parties are guardedly  
11 optimistic that the case may be voluntarily resolved if allowed to proceed to a  
12 meaningful mediation.

13 ///

14 ///

8. The continuation of the above-referenced pre-trial date and related cut-off dates/deadlines will not adversely affect any of the parties to this action.

Dated: November \_\_\_\_, 2007

RICHARD E. DAMON, PC

By: \_\_\_\_\_

Richard E. Damon  
Attorneys for Plaintiff  
GINA DRAKE

Dated: November \_\_\_\_, 2007

SHAW, TERHAR & LaMONTAGNE, LLP

By: \_\_\_\_\_

John W. Shaw  
Attorneys for Defendant  
COSTCO WHOLESALE  
CORPORATION, HOMEDICS-  
U.S.A., INC. (erroneously sued and  
served herein as "U.S.A.-  
HoMEDICS, INC.") and TAYLOR  
PRECISION PRODUCTS, INC.

IT IS SO ORDERED.

To accommodate the parties' efforts in resolving the case through mediation, the Court continues the Preliminary Pretrial Conference currently set for November 19, 2007 to **February 25, 2008 at 11 AM**. The parties shall complete their mediation by **January 31, 2008** and file a Joint Preliminary Pretrial Statement by **February 15, 2008**. The statement shall, *inter alia*, update the Court regarding the progress of mediation and the parties' readiness for trial.

Dated: November 7, 2007

  
JAMES WARE

United States District Judge